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U.S. DISTRICT COURT
2005 APR 27 PM 4:39
TX EASTERN-BEAUMONT
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BRUCE C. KEES,
Plaintiff,

v.

INTERNAL REVENUE SERVICE, et al,
Defendants.

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CIVIL ACTION NO: 1:04-cv-768

MEMORANDUM ORDER OF DISMISSAL
AND ADOPTING THE MAGISTRATE'S REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1)(A) and the Local Rules for the United States District Court, Eastern District of Texas, Appendix B, the Court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration of and recommended disposition of pretrial matters and proceedings. Judge Giblin recommended that this proceeding be dismissed for failure to prosecute.

On December 10, 2004, *pro se* Plaintiff Bruce C. Kees filed this civil action in the United States District Court for the Eastern District of Texas, Beaumont Division, seeking certain remedies against the defendants, the IRS and Ken Anderson. *See General Complaint* [Clerk's doc. #1]. Judge Giblin ordered the Clerk of Court to issue summons, and summons were accordingly issued to the plaintiff for service on January 11, 2005. *See Order* [Clerk's doc. #2]. To date, the record reflects that Plaintiff has not issued service upon the defendant or made any effort to prosecute his claims.

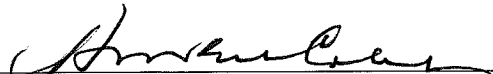
On April 12, 2005, Judge Giblin issued a *Report and Recommendation* on the dismissal of Mr. Kees' case [Clerk's doc. #3]. Because Plaintiff had not perfected service or acted on his case for months, he recommended that the Court dismiss this case for failure to prosecute under Federal Rule of Civil Procedure 41(b).

To date, Plaintiff has not filed objections to the report. The Court therefore agrees with Judge Giblin that this proceeding should be dismissed, *sua sponte*, for lack of prosecution.

Accordingly, the Court **ORDERS** that the Magistrate's *Report and Recommendation on Dismissal* [Clerk's doc. #3] is **ADOPTED**. The Court further **ORDERS** that Plaintiff's *General Complaint* [Clerk's doc. #1] is **DISMISSED** without prejudice for want of prosecution under Federal Rule of Civil Procedure 41(b). All motions not addressed herein are denied as **MOOT** and this matter shall be closed.

It is so ordered.

SIGNED this 27th day of April, 2005.


HOWELL COBB
UNITED STATES DISTRICT JUDGE